

REMARKS

Upon entry of the amendment, claims 18 and 19 will be pending in the application. Claims 1-17, 20-43, and 45-46 have been withdrawn as being drawn to non-elected inventions. Claim 44 has been canceled herein. Claims 18 and 19 have been amended herein. Support for these amendments can be found throughout the specification as-filed, *e.g.* at page 6, lines 13-18; page 7, lines 1-12; page 8, lines 1-6; page 14, line 25 through page 15, line 7; page 58, lines 9-19; and page 83, lines 22-26 of the specification. Thus, no new matter has been added.

Objections to the Information Disclosure Statement

According to the Examiner, the references Schultze *et al.* and Vonderheider *et al.* submitted in the August 2, 2001 Information Disclosure Statement could not be located in the file. (*See* Office Action at page 2.) The Examiner further states that the Schultze *et al.* reference has not been identified by the date of publication and that reference B3 submitted in the February 11, 2003 Information Disclosure Statement could not be located in the file and appears not to be in the English language. Applicants submit herewith a Supplemental Information Disclosure Statement providing the date of publication of the Schultze *et al.* reference. Applicants have cited the International Application corresponding to reference B3 (International Publication Number WO 00/02581) in the Supplemental Information Disclosure Statement and submit that reference WO 00/02581 is in the English language. Copies of the above-identified references are submitted herewith. These objections should be withdrawn.

Claim Rejections Under 35 USC § 101

Claims 18-19 and 44 have been rejected under 35 U.S.C. § 101 as being drawn to non-statutory subject matter. Claim 44 has been canceled. Thus, this rejection, as it applies to this claim, is moot and should be withdrawn. Claim 18, from which claim 19 depends, has been amended to recite, in relevant part, an isolated hTERT peptide. Applicant submits that this rejection should be withdrawn.

Claim Rejections Under 35 USC § 112, first paragraph

Claims 18-19 and 44 have been rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. According to the Examiner, “[t]he recitation of ‘hTERT peptides’ that bind to a major histocompatibility complex is the recitation of a broad range of structurally different peptides with unique amino acid sequences.” (Office Action at page 3.) The Examiner states that the disclosure is not sufficient to represent the broad genus of the claimed hTERT peptides that bind to any MHC class I or II allele from any species. The Examiner further states that the recitation of “universal tumor associated antigens” represents a broad range of different proteins. (See Office Action at page 3.) Claim 44 has been canceled herein. Thus, this rejection, as it applies to this claim, is moot and should be withdrawn.

Claim 18, from which claim 19 depends, has been amended to recite an isolated hTERT peptide less than 514 amino acids in length that binds to a human major histocompatibility complex class I A molecule, wherein said peptide comprises SEQ ID NO: 1. Support for claim 1 can be found throughout the specification as-filed. Specifically, the specification states, “[p]referred examples of hTERT peptides that are included in the invention are peptides I540 (SEQ ID NO: 1)...” (Specification at page 8, lines 2-3.)

To satisfy the written description requirement, an Applicant must convey with reasonable clarity to those skilled in the art as of the filing date that he or she was in possession of the invention as claimed, i.e., that the disclosure must reasonably convey to the artisan that the inventor has possession of the invention as claimed (MPEP at 2163.02). As is set forth above, Applicants have provided a detailed description of the claimed invention in the specification. Applicants submit that the written description requirement has been met and that this rejection should be withdrawn.

Claim Rejections Under 35 USC § 102

Claims 18-19 and 44 have been rejected under 35 U.S.C. § 102(e) as being anticipated by US patent No. 6,475,789 (“the ‘789 patent”). (See Office Action at page 4.) The Examiner contends that the ‘789 patent describes SEQ ID NO: 319, which comprises peptides that bind to a major histocompatibility complex molecule, including a peptide consisting essentially of SEQ

ID NO: 1 of the instant application. (*See* Office Action at page 4.) Claim 44 has been canceled herein. Thus, this rejection, as it applies to this claim, is moot and should be withdrawn.

The '789 patent teaches hTERT peptides, including SEQ ID NO: 319, which is 514 amino acids in length and binds an MHC molecule. Claim 18, from which claim 19 depends, has been amended to require an isolated hTERT peptide less than 514 amino acids in length that binds to a human major histocompatibility complex class I A molecule, wherein said peptide comprises SEQ ID NO: 1. The '789 patent does not teach or suggest all of the limitations of amended claim 18. Thus, this rejection should be withdrawn.

Double Patenting Rejections

Claim 44 has been provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claim 4 of copending U.S.S.N. 11/137,253. (*See* Office Action at page 5.) Claim 44 has been canceled herein. Thus, this rejection is moot and should be withdrawn.

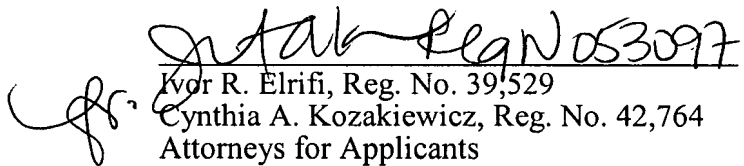
Claim 44 has been provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claim 26 of copending U.S.S.N. 10/130,413. (*See* Office Action at pages 5 and 6.) Claim 44 has been canceled herein. Thus, this rejection is moot and should be withdrawn.

APPLICANTS: Nadler, et al.
U.S.S.N.: 09/830,400

CONCLUSION

On the basis of the foregoing amendments and remarks, Applicants submit the pending claims are in condition for allowance. Such action is respectfully requested. The Commissioner is authorized to charge any fees that may be due to Deposit Account No. 50-0311, Reference No. 20363-015 NATL.

Respectfully submitted,


Ivor R. Elrifi, Reg. No. 39,529
Cynthia A. Kozakiewicz, Reg. No. 42,764
Attorneys for Applicants
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY and POPEO, P.C.
Tel: (617) 542-6000
Fax: (617) 542-2241
Customer No. 30623

Date: April 26, 2007

ACTIVE 4021211v.1